

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS (BOSTON)

SHARON BOBBITT, Individually and on  
Behalf of all Others Similarly Situated,

Plaintiff,

vs.

ANDREW J. FILIPOWSKI, *et al.*

Defendants.

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) **CASE NO. 1:04-cv-12263-(PBS)**

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)  
) **THIRD UNOPPOSED MOTION TO  
EXTEND TIME FOR LEAD PLAINTIFFS  
TO FILE RESPONSE TO DEFENDANTS'  
MOTION TO DISMISS THE SECOND  
CONSOLIDATED COMPLAINT**

Lead Plaintiffs James Tito (“Tito”) and Frank Waddell (“Waddell”) by their undersigned counsel, hereby move this Court to: (i) extend the time for them to file their response to Defendants’ motion to dismiss the Second Consolidated Complaint until September 12, 2005; (ii) extend the time for Defendants to reply to such opposition until October 10, 2005; and (iii) adjourn the oral argument on Defendants’ motion to dismiss the Second Consolidated Complaint, which is currently scheduled for September 22, 2005, until a later determined date. As reasons therefor, Lead Plaintiffs state:

1. On May 5, 2005, Plaintiffs filed an Unopposed Motion to Extend Time for Lead Plaintiffs to File Opposition to Defendants’ Motion to Dismiss the Second Consolidated Complaint in which they advised the Court that the parties had reached an agreement to mediate the claims in the above-captioned action and requested an extension of time so that this mediation could take place.

2. By electronic Order dated May 13, 2005, the Court granted the requested Motion for Extension of Time to File and ordered that any memorandum in opposition to Defendants’ motion to dismiss be filed by July 8, 2005, that Defendants reply memorandum be filed by July 29, 2005 and the Hearing on the Motion to Dismiss be rescheduled to July 19, 2005, at 3:00 PM.

3. On June 29, 2005, the parties conducted a full day mediation with former United States District Judge Layn R. Phillips in an attempt to mediate the claims in this action.

4. Following the mediation, on July 7, 2005, Lead Plaintiffs filed a Second Unopposed Motion to Extend Time for Lead Plaintiffs to File Opposition to Defendants’ Motion to Dismiss the Second Consolidated Complaint in an effort to minimize any unnecessary costs in this action and so that the parties could focus their energies on resolving these claims.

5. By electronic Order dated July 11, 2005, the Court granted the Second Unopposed Motion for Extension of Time to File and Ordered that any memorandum in opposition to Defendants' motion to dismiss be filed by August 12, 2005, that Defendants reply memorandum be filed by September 9, 2005 and the Hearing on the Motion to Dismiss be rescheduled to September 22, 2005, at 3:00 PM.

6. While the mediation of June 29, 2005 was productive and great progress was made, the parties recognized that the mediation could not be completed in one day's time and a subsequent mediation session would be required. The parties are continuing their efforts to mediate these claims and believe that a resolution can be made reasonably soon. For this reason, Lead Plaintiffs respectfully submit that it would once again be in all parties interests to adjourn the present schedule so that the parties can devote their time, energy and resources to the complex negotiations that resolution of this matter will require.

Accordingly, in an effort to minimize any unnecessary costs in this action, Lead Plaintiffs hereby request an extension of the previously-agreed upon briefing schedule.

4. Lead Plaintiffs' counsel has conferred with Defendants' counsel who inform Lead Plaintiffs' counsel that they do not intend to oppose this motion.

WHEREFORE, Lead Plaintiffs Tito and Waddell request that this Court enter an Order to extend the briefing schedule, as described herein, and to adjourn the oral argument scheduled for September 22, 2005.

DATED: August 11, 2005

Respectfully submitted,

**GILMAN AND PASTOR, LLP**

By: /s/ David Pastor

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***Lead Counsel for Plaintiffs and the Class***

LOCAL RULE 7.1(A)(2) CERTIFICATION

I hereby certify that Lead Plaintiffs' counsel conferred with Defendants' counsel and have attempted in a good faith to resolve or narrow the issue raised by this motion. Defendants do not oppose this motion.

/s/ David Pastor  
David Pastor